



Human Rights Council
Working Group on the Universal Periodic Review
Thirty-fifth session
20–31 January 2020

Compilation on Spain

Report of the Office of the United Nations High Commissioner for Human Rights

I. Background

1. The present report was prepared pursuant to Human Rights Council resolutions 5/1 and 16/21, taking into consideration the periodicity of the universal periodic review. It is a compilation of information contained in reports of treaty bodies and special procedures and other relevant United Nations documents, presented in a summarized manner owing to word-limit constraints.

II. Scope of international obligations and cooperation with international human rights mechanisms and bodies^{1,2}

2. Spain was encouraged to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.³

3. Spain made annual contributions to the Office of the United Nations High Commissioner for Human Rights (OHCHR) during the reporting period 2015–2019, including to several voluntary funds.⁴

III. National human rights framework⁵

4. In 2018, the Committee on the Rights of the Child recommended reopening the Office of the Ombudsman for Children in Madrid and strengthening the capacity of the national Office of the Ombudsman to address complaints by children, particularly in those autonomous communities where no office of the Ombudsman existed.⁶

5. Also in 2018, the Working Group of Experts on People of African Descent was concerned that the Council for the Elimination of Racial and Ethnic Discrimination had ceased almost all its activities.⁷ Two treaty bodies recommended that the Council be provided with the necessary financial resources to enable it to carry out its mandate effectively and independently.⁸

6. In 2017, the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment recommended that the national preventive mechanism



develop a stronger strategy in order to differentiate its team from that of the Office of the Ombudsman and to raise awareness of the specific nature of its mandate.⁹ It also recommended that Spain allocate the necessary financial resources to the mechanism, as required by the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the guidelines on national preventive mechanisms (CAT/OP/12/5).¹⁰

IV. Implementation of international human rights obligations, taking into account applicable international humanitarian law

A. Cross-cutting issues

1. Equality and non-discrimination¹¹

7. The Committee on Economic, Social and Cultural Rights was concerned that the measures adopted had not been successful in combating the persistent de facto discrimination against certain groups, including the *Gitano* population, persons of African descent, persons with disabilities, migrants, refugees and asylum seekers.¹² Two treaty bodies and the Working Group of Experts on People of African Descent recommended adopting a comprehensive law on non-discrimination, including against racism.¹³ The Working Group also recommended adopting a comprehensive law against hate crimes, providing for comprehensive assistance and adequate protection and restitution to victims.¹⁴

8. In 2016, the Committee on the Elimination of Racial Discrimination noted with satisfaction that the principles of proportionality, equal treatment and non-discrimination in respect of identity checks had been included in the Civil Security Act.¹⁵ However, two treaty bodies regretted that identity checks based on ethnic and racial profiling had continued¹⁶ and recommended putting an end to this kind of identity checks.¹⁷ The Working Group of Experts on People of African Descent found that racial profiling of people of African descent was endemic,¹⁸ that Spanish legislation lacked a specific prohibition of racial profiling and that the existing criteria for law enforcement agents to conduct identity checks remained insufficient.¹⁹ The Special Rapporteur on minority issues raised similar concerns.²⁰

9. The Committee on the Elimination of Racial Discrimination indicated that structural discrimination affected people of African origin who had migrated directly from Africa and those who were descendants of slaves.²¹ It recommended that the State party draw up and put into effect special measures to secure equal opportunities for participation by people of African descent in public employment and governmental bodies and that it carry out education campaigns.²²

2. Development, the environment, and business and human rights²³

10. Several treaty bodies welcomed the adoption of the National Plan on Business and Human Rights.²⁴ The Committee on Economic, Social and Cultural Rights recommended that the State party establish effective mechanisms to ensure that companies perform human rights due diligence and that it define the legal responsibility of companies with regard to violations of economic, social and cultural rights, whether committed by them directly or resulting from the activities of their subsidiaries abroad.²⁵ The Committee on the Rights of the Child recommended that Spain integrate an explicit focus on children's rights, including the requirement for businesses to undertake child rights due diligence in the implementation of their activities.²⁶ The Committee on the Elimination of Racial Discrimination recommended taking legislative steps to prevent corporations from engaging in activities that adversely affected the rights of indigenous peoples and persons of African descent in the countries in which they carried out those activities and making them accountable for their actions.²⁷

11. The Committee on the Rights of the Child recommended carrying out an assessment of the impact of air pollution from coal-fired power plants on children's health and on the

climate, and strictly regulating maximum air-pollutant emissions, including those produced by private businesses.²⁸

B. Civil and political rights

1. Right to life, liberty and security of person²⁹

12. The Human Rights Committee was concerned about complaints of excessive use of force, including torture and ill-treatment, by State officials, particularly in the context of public protests, and that police officers convicted of torture had been granted pardons.³⁰ The Committee against Torture recommended that the State party take measures to prevent and put a stop to the disproportionate use of force by law enforcement officials and that it ensure that there were clear, binding rules governing the use of force fully compatible with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.³¹ The Human Rights Committee recommended that related complaints be investigated and that perpetrators be brought to justice; and that more human rights training be provided for law enforcement officials.³²

13. Three treaty bodies raised concern at the practice of court-authorized incommunicado detention and recommended its abolition.³³ The Committee against Torture urged Spain to place a total ban on solitary confinement of more than 15 days.³⁴ The Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment recommended introducing, in the meantime, the safeguards proposed in the framework of the universal periodic review that had not yet been included in the Criminal Procedure Act, and doing away with the possibility of applying this regime to adolescents.³⁵ The Human Rights Committee, in 2019, found that Spain had violated the rights of an individual who had suffered torture while in incommunicado detention and called again on Spain to end this regime because it created a context in which it was easier to torture.³⁶

14. The Committee against Torture urged Spain to consider harmonizing the content of article 174 of its Criminal Code with article 1 of the Convention and ensure that crimes of torture were subject to appropriate penalties that take into account its grave nature.³⁷ The Subcommittee on Prevention of Torture recommended eliminating the distinction between serious and less serious acts of torture established in the Criminal Code.³⁸ The Committee against Torture was concerned that the statute of limitations continued to apply to the crime of torture under article 174 of the Criminal Code and urged Spain to ensure that acts of torture were not subject to any statute of limitations.³⁹ The Subcommittee recommended that complaints of torture should be effectively investigated.⁴⁰

15. The United Nations High Commissioner for Human Rights was very disturbed by the violence in Catalonia on 1 October 2017. With hundreds of people reported injured, he urged the Spanish authorities to ensure thorough, independent and impartial investigations into all acts of violence. United Nations experts were also disturbed by the eruption of violence on that day. The High Commissioner and the Special Rapporteur on the rights to freedom of peaceful assembly and of association stressed that any use of force by police must be both necessary and proportionate.⁴¹

16. In 2019, in two opinions, the Working Group on Arbitrary Detention found that the deprivation of liberty of Jordi Cuixart, Jordi Sánchez, Oriol Junqueras, Joaquín Forn, Josep Rull, Raúl Romeva and Dolores Bassa was arbitrary, and requested the Spanish authorities to release them immediately, grant them the right to reparation and conduct a comprehensive, independent investigation into the circumstances of their detention.⁴² Spain responded that the legal action taken in those cases could not be viewed as a reaction to a legitimate political desire for Catalan independence, but rather as nothing other than a judicial measure imposed in response to specific acts performed outside the rule of law.⁴³

2. Administration of justice, including impunity, and the rule of law⁴⁴

17. The Subcommittee on Prevention of Torture recommended that a review of the criminal legislation applicable to minors should be undertaken in order to bring it into line with international standards.⁴⁵

18. The Subcommittee observed that persons accused or convicted of terrorism were transferred to places far from their families. It recommended taking into account rule 59 of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) when assigning a person to a prison.⁴⁶

19. In 2017, the Working Group on Enforced or Involuntary Disappearances regretted the limited progress made in implementing the recommendations made after its visit to Spain in 2013. It commended the adoption of the Historical Memory Act in 2017 and hoped that the Government would provide more support to families and to relatives' associations in effectively applying the provisions of the Act relating to the locating and identifying of persons. It emphasized the importance of the State's taking an active role with regard to the exhumation and identification of the remains of victims of the Civil War and the dictatorship. Lastly, it reiterated the urgency of adopting a national plan on the search for disappeared persons, in accordance with international standards.⁴⁷

20. In 2018, a group of United Nations human rights commended Spain for its proposal to create a truth commission and for its commitment to draw up plans to search for those who had disappeared during the civil war and the dictatorship of Francisco Franco. They expected that those initiatives would be accompanied by progress in the judicial sphere, including regarding any criminal procedure carried out in any country for the enforced disappearances committed in Spain.⁴⁸ Earlier, the Human Rights Committee had recommended that Spain repeal or amend the Amnesty Act to bring it fully into line with the International Covenant on Civil and Political Rights, that it actively encourage investigations into all past human rights violations, that it identify, prosecute and punish perpetrators in a manner commensurate with the gravity of the crimes committed and that it provide redress to the victims.⁴⁹

21. The Committee on the Rights of the Child recommended increasing the number of specialized judges for children, ensuring the availability of specialized juvenile court facilities and child-friendly procedures and reviewing the 2017 agreement by the General Council of the Judiciary to transfer specialized children's judges to general courts.⁵⁰

3. Fundamental freedoms and the right to participate in public and political life⁵¹

22. On 28 September 2017, two special rapporteurs called on the Spanish authorities to ensure that measures taken ahead of the Catalan referendum on 1 October did not interfere with the rights to freedom of expression, assembly and association, and public participation. They stated that the Spanish authorities had a responsibility to respect those rights, which were essential to democratic societies, and urged all parties to exercise the utmost restraint and avoid violence of any kind to ensure peaceful protests. They were also concerned that websites had been blocked and political meetings stopped. Politicians had been arrested and leaders of the mass protests had been charged with sedition.⁵²

23. Regarding the eruption of violence on 1 October 2017, on 4 October 2017 four special procedure mandate holders urged the Spanish authorities to fully respect fundamental human rights, including the rights to freedom of peaceful assembly and association, participation in public affairs and freedom of expression. The experts also called for an investigation into why hundreds of people protesting peacefully or seeking to manifest their opinions, and some police officers, had reportedly been injured. The Special Rapporteur on freedom of peaceful assembly and of association stressed that Spain had a duty to ensure that all measures to manage public protests and public assemblies were in conformity with its international obligations.⁵³

24. On 25 October 2017, in connection with the situation in Spain, the Independent Expert on the promotion of a democratic and equitable international order called on the Spanish authorities to enter into negotiations in good faith with leaders in Catalonia following the announcement that the Government would suspend the region's autonomy.⁵⁴

25. In April 2018, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression noted that, following the October 2017 referendum, the Spanish authorities had arrested the then-members of the Catalan government and leaders of civil society organizations and charged them with rebellion, among other things. He urged the Spanish authorities to refrain from pursuing the criminal charge of rebellion

against political figures and protesters in Catalonia, which carried a jail sentence of up to 30 years.⁵⁵

26. The United Nations High Commissioner for Human Rights firmly believed that the situation in Catalonia should be resolved through political dialogue, with full respect for democratic freedoms, and called on the Government of Spain to accept without delay the requests by relevant United Nations human rights experts to visit. Various United Nations experts also called for dialogue.⁵⁶

27. The Working Group of Experts on People of African Descent was concerned at the effects of the Law on the Security of Citizens on the rights of persons of African descent. The deterrent provisions of the Law that imposed large fines for filming law enforcement agents and reversing the burden of proof had reportedly pushed people into self-censorship, resulting in underreporting of discriminatory acts and in a failure to investigate and prosecute perpetrators and provide redress to victims.⁵⁷

28. The United Nations Educational, Scientific and Cultural Organization (UNESCO) recommended that Spain decriminalize defamation and place it within the civil code, in accordance with international standards of necessity and proportionality concerning restrictions on freedom of expression.⁵⁸

4. Prohibition of all forms of slavery⁵⁹

29. Two treaty bodies were concerned that trafficking in persons to, from and through the country persisted.⁶⁰ The Working Group of Experts on People of African Descent recommended that Spain develop a comprehensive human rights approach to dealing with the trafficking of people of African descent and that women who were victims of trafficking be identified and accorded international protection.⁶¹

30. The Committee on the Elimination of Discrimination against Women recommended the adoption of comprehensive legislation covering all forms of trafficking and servitude.⁶² The Human Rights Committee recommended continuing to investigate allegations of trafficking in persons, prosecuting and punishing those responsible and providing comprehensive redress for victims.⁶³

31. The International Labour Organization (ILO) Committee of Experts on the Application of Conventions and Recommendations encouraged Spain to heighten awareness and step up training for labour inspectorate, law enforcement and legal personnel to allow better identification of instances of trafficking in persons for the purposes of sexual exploitation and labour exploitation.⁶⁴

C. Economic, social and cultural rights

1. Right to work and to just and favourable conditions of work⁶⁵

32. While concerned that the unemployment rate remained high and disproportionately affected youth, women, the *Gitano* population and migrants,⁶⁶ the Committee on Economic, Social and Cultural Rights recommended continuing to implement fully the Spanish Employment Activation Strategy 2017–2020 by, among other means, giving due consideration to groups disproportionately affected by unemployment.⁶⁷ The ILO Committee of Experts encouraged Spain to monitor the evolution of discrimination in employment and occupation.⁶⁸

33. The Committee on Economic, Social and Cultural Rights was also concerned that, despite the decline in the overall incidence of precarious employment, the incidence of some forms of such work, especially temporary employment, remained high and particularly affected women.⁶⁹ It recommended preventing abuse of the various forms of precarious employment, especially temporary employment by, among other means, generating decent work opportunities that provided job security and adequate protection of labour rights.⁷⁰

34. The Working Group of Experts on People of African Descent recommended that the Government address the racial discrimination and de facto segregation in the lack of social

services for and exploitation in the labour market of people of African descent, including in Almería.⁷¹

35. In 2018, the ILO Committee of Experts noted the observations of the General Union of Workers concerning the exclusion of domestic workers from the Occupational Risk Prevention Act and regretted that section 26 of the Act relating to maternity protection was not applied to those workers.⁷² The Committee on Economic, Social and Cultural Rights recommended ensuring the effectiveness of collective bargaining and the right to union representation and taking legislative measures to prevent the criminal prosecution of workers who have participated in strikes.⁷³

2. Right to social security⁷⁴

36. The Committee on Economic, Social and Cultural Rights was concerned at the persistent deficit shown by the pension system, at the low percentage of persons eligible for non-contributory benefits and at the fact that the level of both contributory and non-contributory benefits was insufficient to ensure that all pensioners and their dependants were guaranteed an adequate standard of living.⁷⁵ It recommended eliminating the deficit shown by the pension system, in order to ensure the system's sustainability, and ensuring that everyone was covered by the social security system, including the most disadvantaged or marginalized persons and groups.⁷⁶

3. Right to an adequate standard of living⁷⁷

37. In 2018, the Committee on Economic, Social and Cultural Rights was concerned that the extended application of certain austerity measures continued to affect disadvantaged and marginalized groups and individuals disproportionately regarding the effective enjoyment of their rights, and had created further inequality.⁷⁸ It recommended that the austerity measures adopted be temporary, necessary, proportionate and non-discriminatory.⁷⁹

38. The same Committee was concerned that the percentage of the population at risk of poverty and social exclusion was high, particularly among young people, women, the least educated and migrants, and that this percentage was higher in certain autonomous communities and that children were most at risk of falling into poverty.⁸⁰ The Committee on the Rights of the Child was seriously concerned that average national indicators on social exclusion, poverty and inequality had increased, while investment in social protection measures related to children continued to be well below the European average.⁸¹

39. The Committee on Economic, Social and Cultural Rights was concerned at the inadequacy of the fiscal policy to address the adverse effects of the growing social inequality.⁸² It recommended conducting a full evaluation of the effects of its fiscal policy on human rights and ensuring that its tax system was socially just and had a broad redistributive effect.⁸³

40. The same Committee welcomed the Comprehensive National Strategy for Homeless Persons 2015–2020.⁸⁴ However, it was concerned that the austerity measures had had a negative impact on the right to adequate housing. It noted the significant number of households that did not have adequate housing and the large number of homeless persons.⁸⁵ The Committee on the Rights of the Child was concerned about cases of children living in slums and in housing of substandard quality in some autonomous communities, particularly Roma children and children with migrant backgrounds, and cases of evictions of families with children.⁸⁶

41. The Committee on Economic, Social and Cultural Rights reiterated its previous recommendation on evictions and called upon Spain to adopt a legislative framework establishing appropriate requirements and procedures for conducting evictions or forced evictions and providing statutory legal and procedural safeguards to ensure that persons affected had access to compensation or alternative suitable accommodation, were given a sufficient and reasonable notice period when informed of eviction orders and had access to an effective legal remedy.⁸⁷ In 2015, 2017 and 2019, the same Committee found, in three cases, a violation of the right to housing by Spain.⁸⁸

4. Right to health⁸⁹

42. Several treaty bodies and special procedures raised concerns about limited access to health-care services by irregular migrants, especially migrant women, including regarding free access to sexual and reproductive health services.⁹⁰ It was recommended that Spain take the necessary steps to ensure that irregular migrants had access to all necessary health-care services, without discrimination.⁹¹ The Committee on Economic, Social and Cultural Rights recommended that Spain ensure, in practice, the accessibility and availability of sexual and reproductive health services for all women and adolescents.⁹²

43. Similarly, a number of treaty bodies and the Working Group on discrimination against women and girls raised concerns about Organic Law No. 11/2015 limiting access to abortion for girls between the ages of 16 and 18 years and women with disabilities by requiring the express consent of their legal representative.⁹³ It was recommended that Spain consider removing said requirement⁹⁴ and obstacles to women's access to safe and legal abortion services.⁹⁵

44. The Committee on the Rights of Persons with Disabilities⁹⁶ recommended ensuring the accessibility and availability of health-care services and accessible information for all persons with disabilities.⁹⁷

5. Right to education⁹⁸

45. UNESCO noted that a draft bill on education had been presented in 2019⁹⁹ and recommended introducing at least one year of compulsory pre-primary education and adopting other measures to guarantee the right to education to all migrants and asylum seekers, ensuring that they are adequately equipped to progress at each of the education levels.¹⁰⁰

46. The Committee on the Rights of Persons with Disabilities was concerned about the limited progress made with regard to inclusive education.¹⁰¹ The findings of inquiry it carried out in 2017 revealed the inadequacy of the measures taken to promote inclusive education for persons with disabilities, and the lack of predictability of the system for promoting and protecting their rights.¹⁰² As a result of the inquiry, the Committee recommended formulating a comprehensive inclusive education policy with strategies for promoting a culture of inclusion.¹⁰³

47. The Committee on Economic, Social and Cultural Rights was concerned that, in spite of its decline, the dropout rate in Spain remained the second highest in the European Union.¹⁰⁴ Two treaty bodies noted that the dropout rates disproportionately affected students from the most disadvantaged groups, especially *Gitano*, Roma and migrant children and adolescents, as well as those with lower incomes.¹⁰⁵ Spain was urged to further reduce the high dropout and repetition rates in secondary education by adopting a strategy that addressed the socioeconomic factors which may influence decisions to leave education prematurely and to give due consideration to the groups most affected.¹⁰⁶ Some treaty bodies and special procedures were concerned about the segregation in schools affecting children of African descent, *Gitanos*, migrants and other minority children.¹⁰⁷ They recommended combating school segregation and adopting effective educational policies to ensure the fair distribution of pupils, so as to eliminate the phenomenon of "ghetto" schools.¹⁰⁸

48. The ILO Committee of Experts requested the Government to protect migrant children from the worst forms of child labour, particularly by ensuring their integration into the education system.¹⁰⁹

D. Rights of specific persons or groups

1. Women¹¹⁰

49. Two treaty bodies welcomed legislative measures to protect women from violence.¹¹¹ However, the Committee on the Elimination of Discrimination against Women and the Working Group on discrimination against women and girls were concerned by the

prevalence of violence against women, including sexual violence, and by the high percentage of women who had died as a result of a gender-based violence in close relationships.¹¹² The Committee recommended including other forms of gender-based violence in the law, ensuring that victims had access to immediate means of redress and protection and that perpetrators were prosecuted and adequately punished.¹¹³

50. The same Committee welcomed the decision by the highest court of Spain finding in favour of a victim of domestic violence and reaffirming that Spanish law must incorporate the rights and freedoms of human rights treaties. The Committee recommended the application of due diligence in domestic violence cases and the provision of mandatory training for judges and law enforcement officers.¹¹⁴

51. The Working Group on discrimination against women and girls noted the efforts made by Spain to integrate women into public, political and economic life and its impressive legal and institutional infrastructure for gender equality, which had brought significant gains for women.¹¹⁵ It noted, however, that in the media traditionalist and sexist roles were still widespread.¹¹⁶ Some treaty bodies were also concerned about the persistence of entrenched traditional attitudes and stereotypes concerning the roles and responsibilities of women and men in the family and in society.¹¹⁷

52. The Committee on the Elimination of Discrimination against Women was concerned that the austerity measures had had a disproportionate impact on women, in particular women with disabilities, older women and women domestic workers.¹¹⁸ It recommended reviewing legislation and policies in order to promote equal opportunities and equal treatment of women in employment, including career opportunities, and to limit the exposure of women to segregated and precarious work.¹¹⁹ The Working Group on discrimination against women and girls recommended removing barriers to the participation of women in the labour force and increasing women's participation in entrepreneurship and economic decision-making.¹²⁰ A number of treaty bodies recommended eliminating the wage gap between men and women, as well as combating horizontal and vertical segregation in employment.¹²¹

53. The Committee on the Elimination of Discrimination against Women and the Working Group on discrimination against women and girls welcomed the increase in the representation of women in Parliament. However, they also noted the generally low participation of women in political and public life, in particular in decision-making positions at the autonomous community level, in the diplomatic service and in the judiciary.¹²²

2. Children¹²³

54. The Committee on the Rights of the Child commended the adoption of laws modifying the child and adolescent protection system.¹²⁴ It was, however, concerned that the level of investment in children had not been high enough to offset the negative impact of the severe economic and social crisis.¹²⁵ It recommended promoting a comprehensive assessment of the budget needs of children.¹²⁶

55. While appreciating that corporal punishment was prohibited in all settings, the Committee on the Rights of the Child was concerned that such punishment persisted, particularly in the home.¹²⁷ It recommended expediting the adoption of legislation guaranteeing comprehensive protection of children against violence and ensuring its application at all levels.¹²⁸ It also recommended adopting additional extensions to the statute of limitations in child sexual abuse cases and ensuring child-friendly channels for the reporting of sexual exploitation and abuse.¹²⁹

56. Concerned about the high number of children in residential care and about instances of degrading treatment of children in residential care centres,¹³⁰ the Committee on the Rights of the Child recommended increasing the resources allocated to prevent the separation of children from their families and ensuring the sufficient provision of support and assistance, particularly to families with children in disadvantaged situations.¹³¹

57. The same Committee recommended removing the exceptions to the minimum age of marriage.¹³² UNESCO recommended raising the legal age of marriage to 18 years for both men and women.¹³³

3. Persons with disabilities¹³⁴

58. The Committee on the Rights of Persons with Disabilities welcomed the adoption of the Organic Act No. 2/2018 as a first step to guaranteeing the right of all persons with disabilities to vote without discrimination¹³⁵ and the adoption of the Action Plan of the Spanish Strategy on Disability 2014–2020 and other related plans developed by the different autonomous communities.¹³⁶ It recommended analysing and modifying legislation and policies to promote the employment of persons with disabilities, and fully implementing the legal quota established in the revised text of Act No. 9/2017 on public sector contracts.¹³⁷

59. The same Committee recommended that Spain revise its anti-discrimination legislation, policies and strategies, including the Equality Act, that it recognize the denial of reasonable accommodation as a form of discrimination and that it ensure effective mechanisms to provide legal redress and reparation.¹³⁸

60. The same Committee also recommended that Spain design, launch and maintain public awareness and media campaigns aimed at eliminating negative stereotypes towards persons with disabilities and at promoting the recognition of and respect for their rights and a positive perception of those persons in society.¹³⁹

61. The same Committee was concerned about persons with disabilities still living in institutions and, in particular, about women with intellectual or psychosocial disabilities in such institutions being exposed to a high risk of humiliation, abuse and violence, including sexual violence.¹⁴⁰ It was also concerned about reported cases of violence against women with psychosocial disabilities perpetrated by their intimate partners.¹⁴¹ It recommended that Spain address gender-based violence against women with intellectual or psychosocial disabilities and that it take measures to prevent, investigate and provide redress for violations of their human rights and to prosecute the responsible.¹⁴²

62. The same Committee recommended revising or repealing legal provisions to prohibit forced institutionalization and treatment on the grounds of disability, ensuring that mental health provisions are human-rights based and repealing the requirement on the use of psychiatric medication in order to gain access to psychosocial support and housing services.¹⁴³

63. Two treaty bodies were concerned that women and girls with disabilities continued to be subjected to forced sterilization and abortion.¹⁴⁴ The Committee on the Rights of Persons with Disabilities recommended repealing article 156 of Organic Act No. 10/1995 to fully abolish the administration of sterilization, medical treatment and research on all persons with disabilities without the full and informed consent of the person concerned.¹⁴⁵

4. Minorities¹⁴⁶

64. The Special Rapporteur on minority issues noted that many Roma faced significant socioeconomic disadvantage and even exclusion, as well as discrimination and prejudice, in areas such as education, housing and employment.¹⁴⁷ The Committee on the Elimination of Racial Discrimination raised similar concerns¹⁴⁸ and urged Spain to improve the situation of *Gitanos*, promote tolerance, overcome prejudice and negative stereotypes, and improve the situation of Roma.¹⁴⁹ The Committee on Economic, Social and Cultural Rights recommended encouraging the promotion, preservation, expression and dissemination of the cultural identity and historical legacy of the *Gitano* population.¹⁵⁰

65. The Special Rapporteur on minority issues stated that linguistic minorities had a right to use their language in their interactions with State authorities and institutions where it was reasonable and justified to an appropriate degree in proportion to their population, but that this right remained unfulfilled in a number of regions.¹⁵¹

66. The Working Group of Experts on People of African Descent found that the lack of representation of people of African descent was endemic at the State, regional and

municipality levels, as well as in all three branches of power.¹⁵² It recommended increasing the representation of people of African descent at all levels in the public administration, the judiciary, the prosecution services and law enforcement, and other sectors, including education and the media.¹⁵³ It also recommended that the Government support and facilitate an open debate with regard to the Spanish festivities using blackface.¹⁵⁴

67. The Working Group noted deficiencies in the enjoyment by people of African descent in Spain of their economic, social and cultural rights. It learned of the considerable challenges they faced, such as a lack of job opportunities and inadequate access to quality health care, social security and secondary or tertiary education.¹⁵⁵

5. Migrants, refugees and asylum seekers¹⁵⁶

68. While commending Spain for reducing the maximum length of detention in immigration detention centres to 60 days, the Working Group of Experts on People of African Descent was concerned that immigration detention, which is a form of administrative detention, continued to be commonly used.¹⁵⁷ Two treaty bodies recommended preventing the continued use of deprivation of liberty with regard to undocumented migrants or asylum seekers and ensuring that deprivation of liberty of foreigners, when it occurred, was reasonable, necessary and proportionate.¹⁵⁸ The Working Group recommended that the Government seriously consider eliminating all forms of detention for migrants and asylum seekers.¹⁵⁹

69. The Committee on Economic, Social and Cultural Rights was concerned about the difficulties faced by migrants, asylum seekers and refugees with regard to the enjoyment of their economic, social and cultural rights, in particular the right to an adequate standard of living. It noted in particular the inadequate living conditions of migrants and asylum seekers in temporary migrant reception centres in Ceuta and Melilla.¹⁶⁰ Similar observations were made by the Office of the United Nations High Commissioner for Refugees (UNHCR) and other treaty bodies, which noted that the centres in Melilla and Ceuta were heavily overcrowded, offered limited basic services and were not appropriate for children,¹⁶¹ and recommended ensuring adequate living conditions in such centers.¹⁶² It was also recommended that Spain guarantee adequate mechanisms for the early identification of and for supporting persons with specific needs arriving in the temporary holding centres and that it promote awareness on gender- and age-related issues in reception centres.¹⁶³

70. UNHCR, two treaty bodies and the Working Group of Experts on People of African Descent noted with concern that, in cases where children identified themselves as unaccompanied, the authorities in some regions (including Ceuta and Melilla) continued to conduct age-assessment tests, the authority and reliability of which were questionable, and also that such procedures differed among regions and autonomous cities.¹⁶⁴ The Working Group was concerned about the large number of unaccompanied children of African descent who were subject to such age-assessment tests, which in most cases left them with gaps in their protection.¹⁶⁵ The above-mentioned treaty bodies recommended developing a uniform protocol on age-determination methods that was respectful of human rights and that would be used only in cases of serious doubt about the claimed age and in consideration of documentary or other forms of evidence available.¹⁶⁶

71. A number of treaty bodies were concerned about the practice of summary return, also known as “hot expulsion”, which took place at the borders of Ceuta and Melilla. In particular, concerns were raised with regard to the first final provision of the Public Security Act, which established a special regime for Ceuta and Melilla, authorizing the summary return of immigrants identified at their borders without sufficient guarantees of respect for the principle of non-refoulement, where relevant.¹⁶⁷ It was recommended that Spain review the Public Security Act and ensure that all persons seeking international protection had access to fair and personalized assessment procedures, to protection against refoulement without discrimination and to an independent mechanism with the authority to suspend negative decisions.¹⁶⁸ The Working Group of Experts on People of African Descent urged the Government to put an end to all forms of collective expulsions and pushbacks of asylum seekers and migrants.¹⁶⁹

72. The Subcommittee on Prevention of Torture recommended that no returns should be carried out without an individual pre-removal assessment of the risk of torture upon return to the country of origin.¹⁷⁰ It also recommended that Spain should ensure that migrant holding centres do not operate in a manner similar to prison facilities.¹⁷¹

Notes

- ¹ Tables containing information on the scope of international obligations and cooperation with international human rights mechanisms and bodies for Spain will be available at www.ohchr.org/EN/HRBodies/UPR/Pages/ESIndex.aspx.
- ² For the relevant recommendations, see A/HRC/29/8, paras. 131.1–131.9, 131.21–131.24 and 131.103.
- ³ CERD/C/ESP/CO/21-23, para. 35, A/HRC/29/40/Add.3, para. 107 (h), and A/HRC/39/69/Add.2, para. 60.
- ⁴ OHCHR, *OHCHR Report 2019; OHCHR Report 2018*, pp. 72, 76, 86, 104–106, 110–111, 134, 136, 143, 150 and 156; *OHCHR Report 2017*, pp. 79, 83 and 85; *OHCHR Report 2016*, pp. 79 and 85; and *OHCHR Report 2015*, pp. 61, 65 and 68.
- ⁵ For the relevant recommendations, see A/HRC/29/8, paras. 131.102, 131.104, 131.10–131.20, 131.29–131.30, 131.33, 131.35 and 131.37.
- ⁶ CRC/C/ESP/CO/5-6, para. 11.
- ⁷ A/HRC/39/69/Add.2, para. 13.
- ⁸ CCPR/C/ESP/CO/6, para. 7, and CERD/C/ESP/CO/21-23, para. 8 (c).
- ⁹ CAT/OP/ESP/2, para. 17.
- ¹⁰ CAT/OP/ESP/1, para. 14.
- ¹¹ For the relevant recommendations, see A/HRC/29/8, paras. 131.25–131.28, 131.36, 131.38–131.51, 131.161 and 131.163–131.164.
- ¹² E/C.12/ESP/CO/6, para. 17.
- ¹³ E/C.12/ESP/CO/6, para. 18, CERD/C/ESP/CO/21-23, para. 8 (a), and A/HRC/39/69/Add.2, para. 57.
- ¹⁴ A/HRC/39/69/Add.2, para. 57.
- ¹⁵ CERD/C/ESP/CO/21-23, para. 27.
- ¹⁶ *Ibid.*, para. 27, and CCPR/C/ESP/CO/6, para. 8. See also www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=24116&LangID=E.
- ¹⁷ CERD/C/ESP/CO/21-23, para. 28, and CCPR/C/ESP/CO/6, para. 8.
- ¹⁸ A/HRC/39/69/Add.2, para. 19. See also www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=22698&LangID=E.
- ¹⁹ A/HRC/39/69/Add.2, para. 20.
- ²⁰ See www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=24116&LangID=E.
- ²¹ CERD/C/ESP/CO/21-23, para. 29.
- ²² CERD/C/ESP/CO/21-23, para. 30 (a)–(b). See also A/HRC/39/69/Add.2, para. 47.
- ²³ For the relevant recommendations, see A/HRC/29/8, paras. 131.188–131.189.
- ²⁴ CRC/C/ESP/CO/5-6, para. 12, E/C.12/ESP/CO/6, para. 8, and CERD/C/ESP/CO/21-23, para. 33.
- ²⁵ E/C.12/ESP/CO/6, para. 9 (a)–(b).
- ²⁶ CRC/C/ESP/CO/5-6, para. 12 (b).
- ²⁷ CERD/C/ESP/CO/21-23, para. 34.
- ²⁸ CRC/C/ESP/CO/5-6, para. 36.
- ²⁹ For relevant recommendations see A/HRC/29/8.
- ³⁰ CCPR/C/ESP/CO/6, para. 14.
- ³¹ CAT/C/ESP/CO/6, para. 18.
- ³² CCPR/C/ESP/CO/6, para. 14.
- ³³ CCPR/C/ESP/CO/6, para. 17, and CAT/C/ESP/CO/6, para. 10. See also CRC/C/ESP/CO/5-6, para. 47 (a).
- ³⁴ CAT/C/ESP/CO/6, para. 17.
- ³⁵ CAT/OP/ESP/1, para. 19.
- ³⁶ CCPR/C/111/D/2008/2010. See also www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24629&LangID=E
- ³⁷ CAT/C/ESP/CO/6, para. 8.
- ³⁸ CAT/OP/ESP/1, para. 17 (b).
- ³⁹ CAT/C/ESP/CO/6, para. 9.
- ⁴⁰ CAT/OP/ESP/1, para. 35.
- ⁴¹ www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=22192&LangID=E and www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=22197&LangID=E.
- ⁴² A/HRC/WGAD/2019/6, paras. 144–147 A/HRC/WGAD/2019/12, paras. 136–138.
- ⁴³ A/HRC/WGAD/2019/6, para. 82 and A/HRC/WGAD/2019/12, para. 69.

- 44 For relevant recommendations, see A/HRC/29/8, paras. 131.52–131.64, 131.75 and 131.94–131.101.
- 45 CAT/OP/ESP/1, para. 101.
- 46 CAT/OP/ESP/1, paras. 40–41.
- 47 A/HRC/36/39/Add.3, paras. 32–38.
- 48 See www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=23402&LangID=E.
- 49 CCPR/C/ESP/CO/6, para. 21.
- 50 CRC/C/ESP/CO/5-6, para. 47 (b).
- 51 For relevant recommendations, see A/HRC/29/8, paras. 131.108–131.115.
- 52 See www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=22176&LangID=E.
- 53 See www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=22197&LangID=E.
- 54 See www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=22295&LangID=E.
- 55 See www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=22928&LangID=E.
- 56 See www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=22192&LangID=E and www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=22197&LangID=E.
- 57 A/HRC/39/69/Add.2, para. 21.
- 58 UNESCO submission, para. 10.
- 59 For relevant recommendations, see A/HRC/29/8, paras. 131.87–131.93.
- 60 CEDAW/C/ESP/CO/7-8, para. 22, and CCPR/C/ESP/CO/6, para. 22. See also A/HRC/39/69/Add.2, para. 37.
- 61 A/HRC/39/69/Add.2, para. 69.
- 62 CEDAW/C/ESP/CO/7-8, para. 23 (a).
- 63 CCPR/C/ESP/CO/6, para. 22.
- 64 See www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13100:0::NO:13100:P13100_COMMENT_ID:3300919:NO.
- 65 For relevant recommendations, see A/HRC/29/8, paras. 131.117–131.120.
- 66 E/C.12/ESP/CO/6, para. 21.
- 67 *Ibid.*, para. 22.
- 68 See www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13100:0::NO:13100:P13100_COMMENT_ID:3958866:NO.
- 69 E/C.12/ESP/CO/6, para. 25.
- 70 *Ibid.*, para. 26 (a).
- 71 A/HRC/39/69/Add.2, para. 75.
- 72 See www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13100:0::NO:13100:P13100_COMMENT_ID:3966370:NO.
- 73 E/C.12/ESP/CO/6, para. 29.
- 74 For relevant recommendations, see A/HRC/29/8.
- 75 E/C.12/ESP/CO/6, para. 30.
- 76 *Ibid.*, para. 31 (a)–(b).
- 77 For relevant recommendations, see A/HRC/29/8, paras. 131.123–131.124 and 131.126–131.134.
- 78 E/C.12/ESP/CO/6, para. 13.
- 79 *Ibid.*, para. 14.
- 80 *Ibid.*, para. 33.
- 81 CRC/C/ESP/CO/5-6, para. 37.
- 82 E/C.12/ESP/CO/6, para. 15.
- 83 *Ibid.*, para. 16 (a)–(b).
- 84 *Ibid.*, para. 3.
- 85 *Ibid.*, para. 35. See also E/C.12/55/D/2/2014.
- 86 CRC/C/ESP/CO/5-6, para. 37.
- 87 E/C.12/ESP/CO/6, para. 38.
- 88 E/C.12/61/D/5/2015, E/C.12/55/D/2/2014 and E/C.12/66/D/37/2018.
- 89 For relevant recommendations, see A/HRC/29/8, paras. 131.131 and 131.136–131.141.
- 90 E/C.12/ESP/CO/6, para. 42, CEDAW/C/ESP/CO/7-8, para. 30, CERD/C/ESP/CO/21-23, paras. 11–12, A/HRC/39/69/Add.2, para. 77, and A/HRC/29/40/Add.3, para. 82.
- 91 E/C.12/ESP/CO/6, para. 42. See also A/HRC/39/69/Add.2, para. 77.
- 92 *Ibid.*, para. 44 (a).
- 93 E/C.12/ESP/CO/6, para. 43, CEDAW/C/ESP/CO/7-8, para. 30 (b), CCPR/C/ESP/CO/6, para. 13, and A/HRC/29/40/Add.3, para. 78.
- 94 E/C.12/ESP/CO/6, para. 44 (d).
- 95 A/HRC/29/40/Add.3, para. 110 (a).
- 96 CRPD/C/ESP/CO/2-3, para. 48.
- 97 *Ibid.*, para. 49 (a)–(b).
- 98 For relevant recommendations, see A/HRC/29/8, paras. 131.142–131.151.
- 99 UNESCO submission, p. 3.

- 100 Ibid., p. 6. See also CRC/C/ESP/CO/5-6, para. 39.
- 101 CRPD/C/ESP/CO/2-3, para. 45.
- 102 CRPD/C/ESP/IR/1, paras. 75–77. See also CRPD/C/ESP/OIR/1.
- 103 CRPD/C/ESP/CO/2-3, para. 47. See also CRC/C/ESP/CO/5-6, para. 31.
- 104 E/C.12/ESP/CO/6, para. 46 (a).
- 105 Ibid. and CRC/C/ESP/CO/5-6, para. 39. See also A/HRC/29/40/Add.3, para. 60, and www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=24116&LangID=E.
- 106 E/C.12/ESP/CO/6, para. 47 (a).
- 107 Ibid., para. 46 (c), CERD/C/ESP/CO/21-23, para. 31, A/HRC/39/69/Add.2, para. 43, and A/HRC/39/69/Add.4.
- 108 E/C.12/ESP/CO/6, para. 47 (c), and CERD/C/ESP/CO/21-23, para. 32. See also CRC/C/ESP/CO/5-6, para. 40, and www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=24116&LangID=E.
- 109 See www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13100:0::NO:13100:P13100_COMMENT_ID:3288701:NO.
- 110 For relevant recommendations, see A/HRC/29/8, paras. 131.32, 131.34, 131.65–131.74 and 131.76–131.83.
- 111 CAT/C/ESP/CO/6, para. 6 (a), and CEDAW/C/ESP/CO/7-8, para. 4.
- 112 CEDAW/C/ESP/CO/7-8, para. 20, and A/HRC/29/40/Add.3, para. 67.
- 113 CEDAW/C/ESP/CO/7-8, para. 21 (a) and (c). See also CCPR/C/ESP/CO/6, para. 12, and CAT/C/ESP/CO/6, para. 21.
- 114 See www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=23849&LangID=E.
- 115 A/HRC/29/40/Add.3, para. 98.
- 116 Ibid., para. 62.
- 117 E/C.12/ESP/CO/6, para. 19 and CEDAW/C/ESP/CO/7-8, para. 18.
- 118 CEDAW/C/ESP/CO/7-8, para. 28.
- 119 Ibid., para. 29 (a).
- 120 A/HRC/29/40/Add.3, para. 107 (a) and (c).
- 121 CEDAW/C/ESP/CO/7-8, para. 29 (c), E/C.12/ESP/CO/6, para. 24, and CCPR/C/ESP/CO/6, para. 11. See also www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13100:0::NO:13100:P13100_COMMENT_ID:3958854:NO.
- 122 CEDAW/C/ESP/CO/7-8, para. 24, and A/HRC/29/40/Add.3, para. 105.
- 123 For relevant recommendations, see A/HRC/29/8, paras. 131.84–131.86.
- 124 CRC/C/ESP/CO/5-6, para. 3.
- 125 Ibid., para. 8.
- 126 Ibid., para. 9.
- 127 Ibid., para. 21.
- 128 Ibid., para. 22 (a).
- 129 Ibid., para. 23 (a)–(b).
- 130 Ibid., para. 27 (a) and (c).
- 131 Ibid., para. 28.
- 132 Ibid., para. 13.
- 133 UNESCO submission, p. 6.
- 134 For relevant recommendations see A/HRC/29/8, paras. 131.152–131.157.
- 135 CRPD/C/ESP/CO/2-3, para. 4 (a).
- 136 Ibid., para. 5.
- 137 Ibid., para. 51 (a) and (c).
- 138 Ibid., para. 9.
- 139 Ibid., para. 15.
- 140 Ibid., para. 31 (a).
- 141 Ibid., para. 18 (a).
- 142 Ibid., para. 19.
- 143 Ibid., para. 27 (a)–(b).
- 144 CRPD/C/ESP/CO/2-3, para. 33, and CCPR/C/ESP/CO/6, para. 10.
- 145 CRPD/C/ESP/CO/2-3, para. 34.
- 146 For relevant recommendations, see A/HRC/29/8, paras. 131.158–131.160.
- 147 See www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=24116&LangID=E.
- 148 CERD/C/ESP/CO/21-23, para. 23.
- 149 Ibid., para. 24.
- 150 E/C.12/ESP/CO/6, para. 50.
- 151 See www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=24116&LangID=E.
- 152 A/HRC/39/69/Add.2, para. 24.
- 153 Ibid., para. 63.
- 154 Ibid., para. 79.

- ¹⁵⁵ Ibid., para. 41.
- ¹⁵⁶ For relevant recommendations, see A/HRC/29/8, paras. 131.121, 131.122, 131.135, 131.162 and 131.165–131.187.
- ¹⁵⁷ A/HRC/39/69/Add.2, paras. 33–34.
- ¹⁵⁸ CERD/C/ESP/CO/21-23, para. 14, and CCPR/C/ESP/CO/6, para. 15.
- ¹⁵⁹ A/HRC/39/69/Add.2, para. 75.
- ¹⁶⁰ E/C.12/ESP/CO/6, para. 39.
- ¹⁶¹ UNHCR submission, p. 2, CERD/C/ESP/CO/21-23, para. 21, and CRC/C/ESP/CO/5-6, para. 42.
- ¹⁶² E/C.12/ESP/CO/6, para. 40, CAT/C/ESP/CO/6, para. 16, CERD/C/ESP/CO/21-23, para. 22, CRC/C/ESP/CO/5-6, para. 43, and UNHCR submission, p. 2.
- ¹⁶³ UNHCR submission, p. 2, CERD/C/ESP/CO/21-23, para. 22, CEDAW/C/ESP/CO/7-8, para. 37, A/HRC/39/69/Add.2, para. 65 and CRC/C/ESP/CO/5-6, para. 43.
- ¹⁶⁴ UNHCR submission, p. 3, CRC/C/ESP/CO/5-6, para. 44, CCPR/C/ESP/CO/6, para. 23, and A/HRC/39/69/Add.2, para. 37. See also CRC/C/81/D/16/2017, CRC/C/81/D/22/2017 and CRC/C/79/D/11/2017.
- ¹⁶⁵ A/HRC/39/69/Add.2, para. 37.
- ¹⁶⁶ CRC/C/ESP/CO/5-6, para. 45 (b), and CCPR/C/ESP/CO/6, para. 23.
- ¹⁶⁷ CCPR/C/ESP/CO/6, para. 18, CAT/C/ESP/CO/6, para. 13, CRC/C/ESP/CO/5-6, para. 44 (d), and CERD/C/ESP/CO/21-23, para. 17. See also CRC/C/80/D/4/2016.
- ¹⁶⁸ CCPR/C/ESP/CO/6, para. 18, and CERD/C/ESP/CO/21-23, para. 18.
- ¹⁶⁹ A/HRC/39/69/Add.2, para. 64.
- ¹⁷⁰ CAT/OP/ESP/1, para. 93.
- ¹⁷¹ Ibid., para. 88.
-